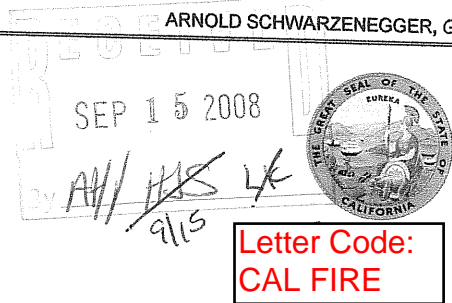




## DEPARTMENT OF FORESTRY AND FIRE PROTECTION

Amador El Dorado Unit

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Camino, CA 95971  
(530) 644-23

California Regional Water Quality Control Board  
Lahontan Region  
Attn: Harold Singer  
2501 Lake Tahoe Boulevard  
South Lake Tahoe, CA 96150

September 11, 2008

RE: Response to Proposed Adoption of a Memorandum of Understanding for Vegetation Management Activities in the Lake Tahoe Region between the Tahoe Regional Planning Agency and the Lahontan Water Board. Identification of a Single Environmental Protection Permitting Entity for Vegetation Management Activities in the Lake Tahoe Region.

Dear Mr. Singer,

The California Department of Forestry and Fire Protection (CAL FIRE) hereby submits the following comments to the Lahontan Regional Water Quality Control Board (LRWQCB) regarding the aforementioned proposed project. Please note that some of the LRWQCB recommendations directly conflict with recommendations of the Emergency California-Nevada Tahoe Basin Fire Commission Report.

**ISSUE 1**

The MOU between the LRWQCB and the Tahoe Regional Planning Agency (TRPA) was crafted in conflict with Recommendation 29 of the Emergency California-Nevada Tahoe Basin Fire Commission Report., which states as follows:

"It is recommended that the Director of CAL FIRE be empowered by the Governor of the State of California to monitor, and to report to the Governor the progress on, the development of the MOU between the LRWQCB and the TRPA with regard to reduction of fire hazards. It is further recommended that the final MOU be submitted to, and be subject to the PRIOR review and comment by the Director of CAL FIRE".

CAL FIRE was not contacted by either the LRWQCB or TRPA to participate in the development of the MOU between the LRWQCB and TRPA. Moreover, CAL FIRE staff raised this issue and concerns to the Water Board Subcommittee and Water Board staff at the July 2008 Water Board hearing in Truckee regarding the draft timber waiver and the draft MOU. Water Board staff indicated that they did not have ample time to contact all interested parties and that CAL FIRE had the option to respond in the same way as other entities and the public during the public comment period. This suggestion effectively disregards the Commission's recommendation.

**ISSUE 2**

Comment Regarding the Definition of "Vegetation Management Activities", Draft MOU Page 2, Preamble Item 10:

This definition requires re-evaluation of the limits of the LRWQCB's authority to define those types of operations on timberlands in California. A direct comparison with the Z'Berg-Nejedly Forest Practice Act of 1973, which includes the definition of Timber Operations as defined in Public


Resource Code 4527, and the draft MOU definition of "Vegetation Management Activities" reveals that the MOU employs the exact same wording. The California Board of Forestry and Fire Protection (BOF) together with CAL FIRE have exclusive authority over timber operations. It appears the LRWQCB did not confer or consult with the BOF or CAL FIRE prior to utilizing this definition. The definition must be re-written to recognize the BOF and CAL FIRE's jurisdiction regarding timber operations.

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In addition, the definition is very broad and therefore suggests that ALL fuel reduction work, even that conducted by hand thinning, would be required to be permitted by TRPA via the MOU. If this interpretation is correct, the definition conflicts directly with Recommendation 17 (I) of the Emergency California-Nevada Tahoe Basin Fire Commission Report. Instead, the draft waiver of discharge should have been and future iterations should be, circulated for public comment concurrently with the draft LRQCB-TRPA MOU as was the case in June/July 2008 as these two documents work from one another and are not mutually exclusive. Moreover, the definition of Vegetation Management Activities should include a clarifying statement regarding exempt activities, such as those not required under waiver categories 1b-6, are not subject to the terms of the MOU.

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### ISSUE 3

#### Comment Regarding Review and Permitting, Page 3, Item 2

Earlier permit streamlining discussions occurred between the TRPA, BOF, LRWQCB, Lake Tahoe Basin Fire Chiefs, and CAL FIRE from 2005 into 2006. During these discussions which occurred at the request of the BOF, it was revealed that the TRPA is extremely understaffed to perform the responsibilities under the then-proposed permit streamlining MOU. Unless additional staffing is allocated to the TRPA, the current proposed MOU between TRPA and the LRWQCB as written will result in the same situation, with TRPA unable to physically perform the functions of the MOU due to lack of available staff. The lack of TRPA staffing essentially renders the MOU potentially ineffective at anytime by TRPA, especially given the likely increase in permitting requirements due to the broad definition of "Vegetation Management Activities". In essence, this section maintains the current status quo, and risks conflict with the intent of the MOU as described in the Preamble, as well as with Recommendations 17 and 26 of the Emergency California-Nevada Tahoe Basin Fire Commission Report.

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### ISSUE 4

#### Comment Regarding Review and Permitting, Page 3, Item 4, 5, 8

These sections essentially render the MOU ineffective regarding the intent to streamline the permitting process as the LRWQCB has allowed too many caveats or "triggers" that require insertion of the LRWQCB into the process.

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### ISSUE 5

#### Comment Regarding Review and Permitting, Page 3, Item 7:

Add language as follows:

"Where CAL FIRE is the Lead Agency regarding a proposed project as per its authority granted by the Legislature regarding the California Forest Practices Act or other state law where CAL FIRE has legislative authority, CAL FIRE shall be responsible for conducting any required Pre-Harvest Inspection and Final Inspection."

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### ISSUE 6

#### Comment Regarding Notification and Coordination, Page 3, Item 9

Again, the BOF together with CAL FIRE has exclusive authority for timber operations under the California Forest Practice Act. It appears the LRWQCB did not confer or consult with the BOF or CAL FIRE prior to utilizing this definition. This section must be re-written so as not to usurp the authority of the Board of Forestry and CAL FIRE under the California Forest Practice Act.

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## ISSUE 7

Comment Regarding Notification and Coordination, Page 4, Item 10

Re-define the term "Vegetation Management Activities" as per "Comment Regarding the Definition of "Vegetation Management Activities", Draft MOU Page 2, Preamble Item 10" on page 1 of this document.

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## ISSUE 8

Comment Regarding Notification and Coordination, Page 4, Item 11

This appears another means by which the LRWQCB seeks to obtain the ability to require a spreadsheet for ... "All vegetation management activities", which could conceivably include those conducted by hand thinning. Delete this proposed change as it conflicts directly with Recommendation 17 (I) of the Emergency California-Nevada Tahoe Basin Fire Commission Report which does NOT require the in-lieu spreadsheet. Deleting this requirement will better implement Recommendations 17 and 30 of the Emergency California-Nevada Tahoe Basin Fire Commission Report

The spreadsheet requirement does not remove the requirement for filing a timber waiver for hand thinning as per Recommendation 17 (H) of the Emergency California-Nevada Tahoe Basin Fire Commission Report, but only changes the reporting format. Again, this conflicts with Recommendation 17 (I) of the Emergency California-Nevada Tahoe Basin Fire Commission Report which states this spreadsheet is an option and specifically states that "...forest treatment projects involving hand crews are no longer required to submit permit or waiver applications under any circumstances".

Thank you for the opportunity to respond. If you have any questions, please do not hesitate to contact me at (530) 573-2321.

Sincerely,



Mary Huggins, RPF #2507  
CAL FIRE Division Chief  
Amador El Dorado Unit  
Tahoe Basin/Alpine County Division  
FOR

Bill Holmes, Unit Chief  
Amador El Dorado Unit

Cc: Ruben Grijalva, CAL FIRE Director  
Kate Dargan, California State Fire Marshal  
Todd Ferrara, Resources Agency  
Bill Snyder, CAL FIRE Chief Resource Management  
Bill Hoehman, CAL FIRE Chief Region Headquarters  
George Gentry, California Board of Forestry and Fire Protection Executive Officer  
Bill Holmes, CAL FIRE Amador El Dorado Unit Chief  
CAL FIRE Tahoe File

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